

VILLAGE OF EMPIRE PLANNING COMMISSION
TUESDAY, APRIL 5, 2022 at 7 PM
EMPIRE TOWNSHIP HALL – 10088 FRONT STREET
REGULAR MEETING

CALL MEETING TO ORDER

ROLL CALL

APPROVAL OF MINUTES –Public Hearing and Special Meeting 03/01/2022

TREASURER’S REPORT

ADDITIONS OR CHANGES TO THE AGENDA

CONFLICT OF INTEREST

CORRESPONDENCE / PUBLIC COMMENT

ZONING ADMINISTRATOR'S REPORT

UNFINISHED BUSINESS

1. Ordinance No. 119 - Mass Gathering Ordinance

NEW BUSINESS

1. Election of Officers

COMMITTEE REPORTS

PUBLIC COMMENT

PLANNING COMMISSION MEMBERS AND CHAIRPERSON COMMENTS

ADJOURNMENT

Persons with questions or individuals with disabilities requiring auxiliary aids or services to effectively participate in the meeting should contact the Village of Empire Office at (231) 326-5466, PO Box 253, Empire, MI 49630, or at deputyclerk@villageofempire.com.

**EMPIRE VILLAGE PLANNING COMMISSION
PUBLIC HEARING AND REGULAR MEETING MINUTES
TUESDAY, MARCH 1, 2022**

The Empire Village Planning Commission (PC) held a public hearing and regular meeting on Tuesday, March 1, 2022.

Schous opened the hearing on the Transportation Plan Update 2022 at 6:30 p.m. No public comment. Hearing adjourned.

ROLL CALL –Maggie Bacon, John Collins, Bob Chase, Peter Schous, John Lambkin, Chris Webb, Phil Deering, and planner Grobbel present.

APPROVAL OF MINUTES – Motion by Chase, supported by Bacon to approve February 1, 2022 regular meeting minutes as presented. All in favor, MOTION PASSED.

TREASURER’S REPORT – Webb summarized the activity for year ending 02/28/2022, closing out the year using approximately 58% of the budget. Village Council set the Planning Commission FY 2022-23 budget at \$16,700.

ADDITIONS/CHANGES TO THE AGENDA – Schous added Redevelopment Ready Communities (RRC) to old business.

CONFLICT OF INTEREST – None

PUBLIC COMMENTS & CORRESPONDENCE – None.

ZONING ADMINISTRATOR’S REPORT – Grobbel presented the ZA report for February 2022. He has approved 3 events: Michigan Outback Relay (July 17, 2022), Benzie County Community Band (August 10, 2022), Leelanau Farmers Market (June 11 through September 3, 2022). ZA Grobbel also submitted a finding of fact for parcel #041-824-037-20 set to have a ZBA meeting on 03/02/2022.

UNFINISHED BUSINESS

Transportation Plan Update 2022

Bacon summarized the changes to the illustrations that were made since the prior draft. **Motion by Bacon, supported by Lambkin to forward the Transportation Plan Update 2022 to Village Council for their comment and approval to release to proper agencies for notification and comment. All in favor, MOTION PASSED.**

Mass Gathering Ordinance No. 119

- Members discussed the pros/cons of having two mass gatherings events on the same day and how to regulate with language and standards.
- Page 2, Section 2.1, necessity of License (2nd sentence) needs clarification.
- Consensus to leave the event size threshold at three hundred fifty (350) people.
- Consensus to change application due date from 45 to ninety (90) days.

- ~~2.6 The Village Enforcement Management Officer will submit at minimum, a notice to the Leelanau County Emergency Management Coordinator informing him or her of the date(s) and the event.~~
- It was recommended that incompatible events and trigger(s) for each shall be listed in section 2.4.
- Possible ways to notify the Empire Township of an event were discussed.
- Consensus to change the application fee to \$1,500.
- Page 4, 3rd paragraph ~~and issue the mass gathering license,~~

ZA Grobbel will prepare a second draft prior to the next meeting.

Redevelopment Ready Communities

Schous gave the commission an update on the process as he is having a difficult time contacting our area representative. Schous has forwarded to MEDC the Village Council resolution. Bacon suggested talking to the Village of Honor as they have completed the training and certification. Members will continue reaching out to MEDC contacts.

NEW BUSINESS – None.

PUBLIC COMMENT – None.

COMMITTEE AND VILLAGE COUNCIL REPORTS – Bacon reported that the budget was passed in February, and that the Boundary Map and legal description has been prepared for the Shalda Park project by Gosling Czubak.

PUBLIC COMMENT – None.

PLANNING COMMISSION MEMBERS AND CHAIRPERSON COMMENTS –

Grobbel inquired if the Village has heard from EGLE regarding the Nonpoint Source grant.

ADJOURNMENT – There being no further business, Schous moved that the meeting be adjourned at 8:31 pm.

Respectfully submitted,

Alacia Acton
Recording Secretary

These draft minutes will be considered for approval at the May 3, 2022, Village of Empire Planning Commission special meeting.

**VILLAGE OF EMPIRE
LEELANAU COUNTY, MICHIGAN**

MASS GATHERING ORDINANCE #119 AMENDMENTS

A) Ordinance #119 Mass Gathering Ordinance - Village of Empire is deleted and replaced by:

AN ORDINANCE TO PROVIDE A LICENSING PROCEDURE FOR MASS GATHERINGS TO INSURE THE PUBLIC HEALTH, SAFETY AND WELFARE BY PROPER PLANNING FOR AND USE OF VILLAGE SERVICES AND PERSONNEL. THE VILLAGE OF EMPIRE ORDAINS:

Section 1. Definitions.

The following terms, as used in this Ordinance, are hereby defined to mean:

- a. "Licensee" shall mean any person to whom an approval is issued pursuant to this Ordinance.
- b. "Mass gathering" shall mean an organized outdoor event of **three-hundred fifty (350)** ~~five-hundred (500)~~ people or more held at a single location on either public or private land within the Village; provided, however, a mass gathering shall not include an event sponsored by the Village itself, and/or garage/yard sales held at private residences, churches, or civic organizations occurring entirely upon the grounds of said private residence, church or organization.
- c. "Person" shall mean any natural person, partnership, corporation, Limited Liability Company, association, organization or other legal entity.
- d. "Sponsor" shall mean any person who organizes, promotes, conducts or causes to be organized, promoted or conducted, a mass gathering.
- e. "Sketch Plan" shall mean a composite drawing on a Village Map that identifies the specific locations of each required amenity and layout of the specific site which includes all requirements of an application.
- f. "Village" shall mean the Village of Empire.

Section 2. License Requirements.

2.1 Necessity of License and Notification.

A person shall not sponsor, maintain, conduct, promote or permit a mass gathering event in the Village without first obtaining a license from the Village for such mass gathering. In addition, a person shall not sponsor, maintain, conduct, promote or permit an organized outdoor event of any size in conjunction with or on the same date and at the same location as a mass gathering without first being included in the application of and being included on the approved license for the mass gathering.

2.2 Application for License.

No less than ninety (90) days before the proposed mass gathering, except as provided for in Section 2.6, the sponsor(s) of the mass gathering shall submit in writing an application for a mass gathering license to the Village's Enforcement Officer on such forms and in such manner as the Village prescribes.

For the application to be considered by the Village of Empire, the application shall be determined by the Enforcement Officer to be administratively complete and shall contain:

- (1) The name(s), address(es) and telephone number(s) of the proposed mass gathering sponsor(s);
- (2) The date(s) and estimated hours of the proposed mass gathering;
- (3) A description of the kind, character and type of mass gathering proposed;
- (4) The address or location of the site at which the proposed mass gathering will be held, including a written statement from the property owner consenting to the use of the property for the proposed mass gathering;
- (5) An estimate of the maximum number of people expected to attend the proposed mass gathering;
- (6) A detailed written statement that indicates how the sponsor(s) plans to provide for the following:
 - (a) Police and fire protection;
 - (b) Medical facilities and services, including emergency vehicles and equipment;
 - (c) Food and water supply facilities;
 - (d) Health and sanitation facilities;

- (e) Vehicle access and parking facilities;
- (f) Cleanup and waste disposal;
- (g) Noise control; and
- (h) Insurance and bonding arrangements.

(7) A sketch plan shall be included with the application which shows at a minimum, areas of staging, parking (**i.e., public and private**), sanitation facilities, emergency corridors and first-aid stations, ingress and egress locations, traffic control, pedestrian crossing areas, waste disposal, food service (if any), and water facilities and resources;

(8) The applicant shall attach a letter from all required entities that they have received a copy of the application and accept the general layout as presented according to the entity's requirements.

(9) The names and mobile phone number(s) of the on-site event coordinator representing the applicant/application organization.

(10) Plan for traffic control, if deemed necessary by the Enforcement Officer, including the number, location(s) and traffic control goal(s) for on-site traffic control volunteers provided by the applicant.

(11) Location, time, days, and duration of the proposed use(s) of any Village-owned property for a mass gathering.

(12) A mass gathering event that is planned to also occur within additional adjoining jurisdictions, e.g., Empire Township, shall provide proof of notification of the planned event to those jurisdictions.

2.3 Application Fee.

Each application for a mass gathering license shall be accompanied by a non-refundable fee in an amount established from time to time by the Village Council as established in the Village's Schedule of Fees.

2.4 Action on Application.

After receiving an application for a mass gathering license and the appropriate fee(s), the Village's Enforcement Officer or his/her appointee, shall review and consider the information contained in the application and shall, if necessary, investigate or cause to be investigated the circumstances surrounding the proposed mass gathering, including the suitability of the site for the proposed mass gathering, the length of the proposed mass gathering, the number of people anticipated to attend, whether there is a conflict with other uses of the site, the increased demands on the County Sheriff, fire department and emergency medical resources, and the sponsor's plans to provide adequate food and water facilities, bathroom facilities, disposal of solid

waste and garbage, traffic patterns, vehicle parking, and access and pedestrian routes to and within the site. Prior to granting the license, the Enforcement Officer may, in such officer's sole discretion, seek guidance from the **Planning Commission and/or the Village Council** as to the terms and conditions necessary for the issuance of said license.

If the proposed mass gathering proposes to use Village-owned property, the Village Council must review and approve the proposed use(s) of Village-owned property at the next regular Village Council meeting and before the Enforcement Officer can make a final decision on any administratively complete application.

Within thirty (30) days after receiving an administratively completed application and/or Village Council approval of the use of Village-owned property for a mass gathering license, the Village's Enforcement Officer and/or Village Council shall approve, approve with conditions or deny the application ~~and issue the mass gathering license~~, unless the Village Enforcement Officer and/or the Village Council finds by a preponderance of the evidence that holding the mass gathering as proposed would be detrimental to the public health, safety and welfare of the Village. If the Village's Enforcement Officer and/or Village Council denies a mass gathering license, the Village Clerk shall send written notice of the denial, including the reasons for the denial, to the sponsor(s) by certified mail within five (5) days of the denial decision.

~~The Village Enforcement Officer and/or Village Council may attach any conditions to the issuance of such license which said officer, in his or her sole discretion, either deems necessary to protect the public health, safety and welfare.~~

If the proposed mass gathering event is planned to overlap or in any way be coterminous with another mass gathering event within the Village, the Applicant shall demonstrate that the proposed mass gathering event will compatible with the other mass gathering event(s). The review of such permit applications will be on a first come, first served basis. The Village Enforcement Officer shall determine mass gathering event compatibility for simultaneous events by assessing:

- (1) The date(s), time and duration and nature of each mass gathering event.**
- (2) The number of anticipated attendees for each mass gathering event.**
- (3) The anticipated impact to public services and properties including but not limited to: a) public parking; b) traffic patterns and volume; c) pedestrian safety; d) impact to adjacent and nearby properties; e) anticipated noise; f) public health, safety (i.e., police and fire) and general welfare, etc.**
- (4) Sanitation facilities.**
- (5) Waste management.**

2.5 Requirement for Applicant's Reimbursement to the Village.

(a) Additional Cost Determination.

During the Enforcement Officer's review, determination of the estimated cost to the Village in means of service or personnel shall be calculated and the applicant shall be responsible for reimbursement to the Village for any estimated additional cost. Since most events are customarily held on weekends, overtime rates shall be used in the calculation for all events held on weekends.

This estimate shall not include the Village's regularly scheduled activities or personnel schedules that would normally be scheduled on the specific date(s).

(b) Reimbursement Requirement for Village Employees.

Determination for Village staff hours shall be based on the Village's actual cost to have the lowest paid departmental employee(s) in ascending order for the specific task on duty during the event. Reimbursement shall be based on all cost associated to the specific employee including, but not limited to, regular or overtime pay, fringe benefit reimbursement and insurances.

(c) Reimbursement requirement for Village equipment or supplies.

Reimbursement to the Village for equipment, vehicles or supplies and services such as refuse disposal cost and vehicles shall be based on actual cost of equipment or services, or vehicle cost based on the State of Michigan's Schedule of Equipment Cost, as amended, and as updated by the State of Michigan Treasury at the time of the event.

(d) Reimbursement Payment to the Village.

All cost reimbursements due to the Village must be paid in full within not more than thirty (30) days after the final date of the event. The Village shall use any legal means necessary to collect any unpaid cost reimbursements. Non-payment of reimbursement cost may jeopardize the event's next scheduled activity and can be grounds for denial of future applications. The Village Enforcement Officer may require the applicant to post a two thousand dollar (\$2,000.00) performance bond or cash security deposit as a condition of granting the license if, in said officer's sole discretion, such performance bond or cash security deposit is necessary to ensure the Village will be reimbursed for its costs as provided for in this ordinance.

2.6 Exemption From Other Ordinances.

It is the express intent of the Village of Empire that all mass gatherings held within the Village shall be governed by this Ordinance and shall therefore be exempt from the provisions of similar Leelanau County ordinances not specifically adopted by the Village Council. The Village En-

forcement Officer may accept or reject any review, decision, determination or recommendation by Leelanau County or its officers for any event held or to be held within the Village limits. ~~The Village Enforcement Officer will submit at a minimum, a notice to the Leelanau County Emergency Management Coordinator informing him or her of the date(s) and the event.~~

Section 3. Enforcement Officer.

Unless and until a different person is assigned the authority and duties of the Enforcement Officer under this ordinance, all of said authority and duties shall be performed by the Village's Zoning Administrator who shall serve as the Enforcement Officer during such time.

Section 4. Appeals Process.

An aggrieved applicant may appeal any decision of the Village Enforcement Officer to the Village Council. All such appeals shall be filed and heard prior to the event's occurrence. No appeal of the costs imposed by this Ordinance shall be considered for any event after the event's occurrence. The Village Council's decision shall be final for the purposes of this Ordinance.

Section 5. Violations.

5.1 Municipal Civil Infractions.

Any person who violates any provision of this Ordinance shall be responsible for a municipal civil infraction and shall be subject to the penalties and sanctions set forth in the Municipal Civil Infractions Ordinance of the Village of Empire as such ordinance may be amended from time to time. Each day this ordinance is violated shall be considered as a separate violation.

5.2 Enforcement Officials.

The officers of the Leelanau County Sheriff's department and the Enforcement Officer provided for in this Ordinance are hereby designated as the authorized Village officials to issue municipal civil infraction citations directing alleged violators of this ordinance to appear in court.

5.3 Nuisance *Per Se*.

A violation of this ordinance is hereby declared to be a nuisance *per se* and is declared to be offensive to the public health, safety and welfare.

5.4 Civil Remedies.

In addition to enforcing this ordinance through the use of a municipal civil infraction proceeding, the Village may initiate proceedings in the Circuit Court to abate or eliminate the nuisance *per se* or any other violation of this ordinance.

Note: the permit fee for a mass gathering permit within the Village of Empire fee schedule is increased to \$1,500.

B) Savings Clause

All proceedings pending and rights and liabilities existing, acquired or incurred at the time this Ordinance takes effect are saved and may be consummated according to the law in force when they were commenced.

C) Effective date

The provisions of this Ordinance are ordered to take effect thirty (30) days after publication (as the full text or as a summary thereof) in a newspaper of general circulation in the Village of Empire.

D) Adoption

This Ordinance was duly adopted by the Village of Empire Council at its regular meeting called and held on the ____ day of _____, 2022.

Section 6: Publication

The Village Clerk shall cause this Ordinance or summary of this Ordinance to be published in a newspaper of general circulation within Village of Empire within thirty (30) days after adoption.

Dan Davis, President, Village of Empire

Derith Smith, Clerk, Village of Empire

Adoption date:

Publication date:

Effective date:

CERTIFICATION

I, Derith Smith, the Clerk for Village of Empire, Leelanau County, Michigan, do hereby certify that the foregoing is a true and complete copy of this Ordinance adopted by the Village of Empire Council at a regular meeting held on _____, 2022. The following members of the Village of Empire Council were present at the meeting:

_____.

The Ordinance was adopted by the Village of Empire Council with ____ members of the Council voting in favor (_____) and ____ voting against (_____).

A copy of the Ordinance or a summary thereof was published in the Leelanau Enterprise and Traverse City Record Eagle on _____.

Derith Smith, Clerk, Village of Empire

Recommendation of Rewording of Action on Application (2.4) Paragraph 1.

After receiving an application for a mass gathering license (I would change the entire Ordinance to say permit), the Villages Enforcement Officer or his/her appointee, shall review the information contained in the application, and if necessary, investigate and determine the impact of the proposed mass gathering, using the following criteria:

- Suitability of the site for the proposed mass gathering,
- Length of the mass gathering, the number of people anticipated to attend,
- Conflict with other uses of the site,
- Increased demands on the County Sheriff, fire department and emergency medical resources,
- Plans to provide adequate food, water facilities and sanitation facilities,
- Disposal of solid waste and garbage
- Impact on traffic patterns, vehicle parking to and within the site, and applicant's ability to provide controls
- Impact on pedestrian routes to and within the site and the applicants' ability to provide controls

Prior to granting the permit (license), the Enforcement Officer may, at their sole discretion, seek guidance from the Village Council with regard to the terms and conditions necessary for the issuance of a permit (license).

Within thirty (30) days, after receiving a completed application for a mass gathering permit, the Village Enforcement Officer shall either:

1. Approve the Application and issue the mass gathering permit

OR

2. Deny the mass gathering permit based on a significant evidence that holding a mass gathering, as proposed, would be detrimental to the public health, safety and welfare of the Village.

If the application is denied, the Village Clerk shall send written notice of the denial, including the reasons for the denial to the sponsor(s) by certified mail within five (5) days of the denial decision.

The Village Enforcement Officer may attach any conditions to the issuance of such a license which, at his or her sole discretion, deems necessary to protect the public health, safety and welfare.

Mass Gathering Ordinance – change recommendations

Page 2, Section 2.2 (6) (d)

Change from Health and sanitation facilities to just Sanitation facilities.

Page 3, Section 2.4

Change “bathroom facilities” to sanitation facilities.

Page 5, Section 2.5

a. Additional Cost Determination

After the event, the Village Enforcement Officer will review and determine if additional costs – in services or personnel - were incurred by the Village due to the event. The applicant shall be responsible for reimbursing the Village for those additional costs. Since most events are held on weekends, overtime rates may apply.

Those additional costs shall not include the Village’s regularly scheduled activities or personnel schedules that would normally be scheduled on the specific date(s).

**VILLAGE OF EMPIRE PLANNING COMMISSION
ADOPTED BY-LAWS**

★ Current

PLANNING COMMISSION		(3 YEAR TERM)
Peter Schous	Chair	February 2024
Bob Chase		February 2024
John Collins	Vice Chair	February 2025
Phil Deering		February 2025
John Lambkin	Secretary	February 2023
Chris Webb	Treasurer	February 2023
Maggie Bacon		November 2022



SECTION 3. OFFICERS

- A) **ELECTION OF OFFICERS:** At their regular April meeting, the Commission shall elect from its membership a Chairperson, Vice-chairperson, Treasurer and Secretary who shall take office immediately following their election. The officers shall serve for one year or until their successors take office. Officers are eligible for re-election.
- B) **CHAIRPERSON DUTIES:** The Chairperson shall preside and preserve order at all meetings of the Commission. In the absence of the Chairperson, the Vice-chairperson shall assume the duties of the Chairperson and shall succeed to the office of Chairperson in the event of a vacancy in that office. The Commission shall then elect a successor to the office of Vice-chairperson at the earliest practicable time.
- C) **TREASURER DUTIES:** The Treasurer shall be responsible for the keeping of the financial statements of the Commission and shall report on the financial status of the Commission at their regular meetings.
- D) **SECRETARY DUTIES:** The Secretary shall be responsible for the preparation of minutes, the keeping of pertinent public records, the delivery of communications and related items of business, issuing notices of public hearings and performing related administrative duties to assure the efficient and informed operations of the Commission. The Commission may consider it necessary to appoint an employee to perform the duties of the Secretary. This employee shall be subject to the same provisions of law that govern other corresponding civil employees of the municipality. In the event the Secretary or appointed employee is absent at a meeting, the Chairperson or acting Chairperson shall appoint a temporary Secretary for the meeting.
- E) **RESIGNATIONS:** Members electing to resign from the Planning Commission should do so in writing to the Village Council President and the Planning Commission Chair.